SUPREME COURT OF THE UNITED STATES.

No. 45.—October Term, 1926.

Hartford Accident & Indemnity Company of Hartford, Petitioner, *vs.* Southern Pacific Company et al.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit.

[February 21, 1927.]

Mr. Chief Justice Taft delivered the opinion of the Court.

The National Oil Transport Company, the owner of wooden oil tank barge *Bolikow*, filed a libel in the United States District Court for the Southern District of Texas against the Southern Pacific Company, alleging that the *Bolikow*, made fast to a dock in the harbor of the city of Galveston, was laden with a cargo of crude oil from which a large part had been discharged; that an explosion took place in one of her tanks, causing fire; that the *El Occidente*, a steamer of the Southern Pacific Company, was injured by the fire; that the value of the barge after the explosion and fire was $250 and her pending freight at the time did not exceed $11,076.85; that the damage to the *Occidente* was due not to the *Bolikow* but to her own negligent management and the lack of power of the tug which attemptel to take her to a safe place; that the claims of the owners of the *Occidente* were in excess of $484,000, and there were claims by persons on the barge for death and injuries from the fire, amounting to $50,000 in one case, and $15,000 in another. The owner contested his liability and that of its barge *Bolikow* to any extent whatever, but in case its liability was established, claimed and sought the benefit of the statutory limitation of its liability. R. S. 4283, 4284 and 4285.

Pursuant to the court's order, the National Oil Transport Company as principal and the Hartford Accident & Indemnity Company, as surety, executed an *ad interim* stipulation that the former as principal and the latter as surety undertook in the sum of $11,326.85, with interest, that the Transport Company would file a bond or stipulation for the limitation of its liability as owner

of the barge *Bolikow*, executed in due form of law for the value of the Transport Company's interest in the barge, and her pending freight with six per cent. interest thereon from December 23, 1920, within ten days after such values were determined by appropriate proceedings in the court, and an order fixing such value was entered therein and that pending the filing of the formal stipulation, the *ad interim* undertaking should stand as security for all claims in the proceeding.

The court then made an order directing the issuing of a monition to claimants against the vessel and her owner growing out of the explosion, and an injunction. Without further action as to fixing the value of the barge or its pending freight, the claimants came in, the cause proceeded to a final decree, after a report by a commissioner, the petition for limitation of liability was denied, the claims in whole or in part were allowed, and the decree proceeded:

"And it further appearing to the Court that neither the petitioner nor its stipulator nor any other party or interest has moved for or caused any re-appraisal or appraisal of the petitioner's interest in said barge and her pending freight, or either of them or caused any order to be entered by the Court fixing such value except as was done by the approval and filing of said *ad interim* stipulation as aforesaid and the issuance and publication of a monition thereon as aforesaid, and it further appearing to the Court that no bond for value other than said *ad interim* stipulation has been filed herein by the petitioner and it appearing from the evidence introduced on the trial hereof and the Court here and now finding that the value of the petitioner's interest in said barge at the termination of her voyage is $250, and that the value of the petitioner's interest in the pending freight of said barge at the termination of said voyage is $11,076.85, and that the total value of said petitioner's interest in said barge and her pending freight at the termination of her said voyage is $11,326.85; it is therefore ordered and decreed that unless this decree be satisfied or an appeal be taken therefrom within the time limited by law and the rules and practice of this Court, the stipulator for value will cause the said petitioner to pay into Court the sum of $11,326.85, the amount of the value of the petitioner's interest in the said barge and pending freight at the termination of her said voyage, with 6 per cent interest from December 23, 1920, to be applied in payment of the costs of Court, the remainder to be pro rated among the respective claimant-respondents in proportion to the amounts of the decrees entered in their favor herein, or show cause why execution should not issue therefor, against goods, chattels and lands of the stipulator for value."

The Hartford Indemnity Company, the stipulator, appealed from this decree which the Circuit Court of Appeals of the Fifth Circuit affirmed. 3rd Fed. (2nd series) 923. We brought the case here by certiorari. 267 U. S. 590.

The contention of the petitioner is that it could become liable only in the event limitation of liability was granted, and as that relief was denied, the stipulation ceased to be effective; that upon a denial of a limitation of liability there ceased to be a *res* in court, that the proceeding was no longer one *in rem* and that suits for the claims against the ship owner must be conducted in a court having jurisdiction on other grounds.

It is surprising that no case has ever arisen in which the question here mooted has been directly decided, though the effect of a decision refusing limitation has been the subject of discussion in *The Titanic*, 204 Fed. 295 and in *The Virginia*, 266 Fed. 437, 439. See also *Dowdell* v. *U. S. District Court*, 139 Fed. 444; *In re Jeremiah Smith & Sons*, 193 Fed. 395; *The Santa Rosa*, 249 Fed. 160.

The history and proper construction of the Limitation of Liability Act of 1851, 9 Stat. 635, now embodied in Revised Statutes, sections 4282 to 4287, are shown in a series of cases in this Court, the chief of which is the *Norwich Company* v. *Wright*, 13 Wall. 104. Further consideration to this subject was given by the Court in *The Benefactor*, 103 U. S. 239; in the *Providence & New York Steamship Company* v. *Hill Manufacturing Company*, 109 U. S. 578; in the *City of Norwich*, 118 U. S. 468, 503; in *The Scotland*, 118 U. S. 507; in *Butler* v. *Boston & Savannah Steamship Company*, 130 U. S. 527; and *In re Morrison*, 147 U. S. 14, 34; in *The Albert Dumois*, 167 U. S. 240; in *The Hamilton*, 207 U. S. 398, and in the *La Bourgogne*, 210 U. S. 95.

These decisions establish, first, that the great object of the statute was to encourage shipbuilding and to induce the investment of money in this branch of industry by limiting the venture of those who build the ships to the loss of the ship itself or her freight then pending, in cases of damage or wrong happening, without the privity or knowledge of the ship owner, and by the fault or neglect of the master or other persons on board; that the origin of this proceeding for limitation of liability is to be found in the general maritime law differing from the English maritime law; and that such a proceeding is entirely within the constitu-

tional grant of power to Congress to establish courts of admiralty and maritime jurisdiction, *Norwich* v. *Wright*, 13 Wall. 104, that to effect the purpose of the statute, Admiralty Rules Nos 54, 55, 56 and 57 were adopted by which the owner may institute a proceeding in a United States District Court in admiralty against one claiming damages for the loss in which he may deny any liability for himself or his vessel, but may ask that if the vessel is found at fault his liability as owner shall be limited to the value of the vessel as appraised after the occurrence of the loss and the pending freight for the voyage; that these damages shall include damages to goods on board, second, damages by collision to other vessels and their cargoes, and, third, any other damage or forfeiture done or incurred; that all others having similar claims against the vessel and the owner may be brought into concourse in the proceeding by monition and enjoined from suing the owner and vessel on such claims in any other court, that the proceeding is equitable in its nature and is to be likened to a bill to enjoin multiplicity of suits, *Providence Steamship Co.* v. *Hill Manufacturing Company*, 109 U. S. 578, that by stipulation after appraisement the vessel and freight may be released, and the stipulation be substituted therefor, that on reference to a commissioner and the coming in of his report, it shall be determined, first, whether the owner and his vessel are liable at all; second, whether the owner may avoid all liability except that of the vessel and pending freight; third, what the amount of the just claims are, and, fourth, how the fund in court should be divided between the claimants. The cases show that the court may enter judgment *in personam* against the owner as well as judgment *in rem* against the *res* or the substituted fund (*City of Norwich*, 118 U. S. 468, 503), that the fund is to be distributed to all established claims to share in the fund to which admiralty does not deny existence, whether they be liens in admiralty or not (*The Hamilton*, 207 U. S. 398, 406), and that they may include damages from a collision, from personal injuries (*Butler* v. *Boston Steamship Co.*, 130 U. S. 527) or for wrongful death if arising under a law of Congress, a State of the Union or a foreign state, which is applicable to the owner and the vessel. *The Bourgogne*, 210 U. S. 95, 138.

It is quite evident from these cases that this Court has by its rules and decisions given the statute a very broad and equitable construction for the purpose of carrying out its purpose and for facilitating a settlement of the whole controversy over such losses as are comprehended within it, and that all the ease with which rights can be adjusted in equity is intended to be given to the proceeding. It is the administration of equity in an admiralty court. *Dowdell* v. *United States District Judge*, 139 Fed. 444, 445. The proceeding partakes in a way of the features of a bill to enjoin the multiplicity of suits, a bill in the nature of an interpleader, and a creditor's bill. It looks to a complete and just disposition of a many cornered controversy and is applicable to proceedings *in rem* against the ship as well as to proceedings *in personam* against the owner, the limitation extending to the owner's property as well as to his person. *The City of Norwich*, 118 U. S. 468, 503.

With this general view of the statute, we come to the contention of the petitioner in this case. He says that the owner only brings the suit to limit his liability, if it exists, to the vessel and the freight for the voyage. If he fails in his purpose and does not establish the limitation, no progress can be made in behalf of the defendant or the claimants in the collection of what has been found due them, and because he has lost that feature of his suit against them the case must be dismissed. This is said to follow, even though it is apparent that by virtue of the owner's suit and the injunction he secured he has delayed and prevented his creditors from resorting to any other forum to vindicate their rights against him. In this view the defendant and the claimants thus may not thereafter share in the fund or *res*, the deposit of which for the benefit of the defendants and the claimants was the principal ground and the indispensable condition of the proceeding. The parties, it is argued, must thereafter be remitted to a common law or equity court of the state to secure their rights, unless diverse citizenship or the admiralty character of their claims entitles them to resort to, or remain in, a Federal Court.

Surely the admiralty court, in view of the large powers intended to be given it in such a proceeding, is not so helpless as this. So to hold would be to hold that unless the petitioner wins, the court does not have power to administer justice. There is nothing in

the statute nor in the rules that requires so feeble a conclusion. The jurisdiction of the admiralty court attaches *in rem* and *in personam* by reason of the custody of the *res* put by the petitioner into its hands. The court of admiralty in working out its jurisdiction acquires the right to marshal all claims, whether of strictly admiralty origin or not, and to give effect to them by the apportionment of the *res* and by judgment *in personam* against the owners so far as the court may decree. It would be most inequitable if parties and claimants brought in against their will and prevented from establishing their claims in other courts should be unable to perfect a remedy in this proceeding promptly and should be delayed, until after the possible insolvency of the petitioner, to seek a complete remedy in another court, solely because the owner can not make his case of personal immunity. Benedict's Admiralty, 1 Vol. 488, 5th ed. If Congress has constitutional power to gather into the admiralty court all claimants against the vessel and its owner, whether their claims are strictly in admiralty or not, as this court has clearly held, it necessarily follows as incidental to that power that it may furnish a complete remedy for the satisfaction of those claims by distribution of the *res* and by judgments *in personam* for deficiencies against the owner if not released by virtue of the statute.

Such a conclusion is quite in accord with the rules governing equity procedure in general conformity with which this limitation of liability statute has been construed and enforced. Where a court of equity has obtained jurisdiction over some portion of a controversy, it may and will in general proceed to decide the whole issues and award complete relief even where the rights of parties are strictly legal and the final remedy granted is of the kind which might be conferred by a court of law. Pomeroy's Equity Jurisdiction (4th ed.), Vol. 1, sections 181 and 231. *United States* v. *Union Pacific Railway Company*, 160 U. S. 1, 52. See also Equity Rule 10, amended May 4, 1925, 268 U. S. 709, Appendix. Of course this equitable rule enlarging the Chancellor's jurisdiction, in order completely to dispose of the cause before him, does not usually apply in an admiralty suit. *Grant* v. *Poillon*, 20 How. 162; *Turner* v. *Beacham*, Taney's Reports 583, Federal Cases No. 14252; *The Pennsylvania*, 154 Fed. 9; *The Ada*, 250 Fed. 194. But this limitation of liability proceeding differs from the ordinary ad-

miralty suit, in that by reason of the statute and rules, the court of admiralty has power (*Providence Steamship Co.* v. *Hill Manufacturing Co.*, 109 U. S. 578) to do what is exceptional in a court of admiralty—to grant an injunction, and by such injunction bring litigants, who do not have claims which are strictly admiralty claims, into the admiralty court (Benedict on Admiralty (5th ed.), sec. 70, note 97). There necessarily inheres therefore in the character of the limitation of liability proceeding in reference to such non-admiralty claims, the jurisdiction to fulfil the obligation to do equitable justice to such claimants by furnishing them a complete remedy.

The Indemnity Company seeks in this review to avoid its liability under an *ad interim* stipulation having a provision that such stipulation if not changed to a formal stipulation shall stand as security for all claims in the limitation proceeding. The stipulation is a substitute for the vessel itself and the freight which was released by reason thereof. The effect of such a stipulation in admiralty is set forth by Mr. Justice Story in *The Palmyra*, 12 Wheat. 10, where he says:

"Whenever a stipulation is taken in an admiralty suit, for the property subjected to legal process and condemnation, the stipulation is deemed a mere substitute for the thing itself, and the stipulators liable to the exercise of all those authorities on the part of the court, which it could properly exercise if the thing itself were still in its custody. This is the known course in admiralty. It is quite a different question whether the court will, in particular cases, exercise its authority where sureties on the stipulation may be affected injuriously; that is a question addressed to its sound discretion."

In *The Oregon*, 158 U. S. 186, 209, after reference to *The Palmyra* and an examination of the English authorities, it was held that the use of bail as a substitute for the property itself is confined to "all points fairly in adjudication before the Court." In that case a stipulator for the release of a vessel libeled for a collision was held not to be responsible to intervenors in the suit intervening after the release of the vessel in the absence of express agreement to that effect. In reversing the court below, this Court said, through Mr. Justice Brown:

"We think the court must have confounded a stipulation given to answer a particular libel with a stipulation for the appraised

value of the vessel, under the limited liability act, which, by general admiralty rule 54, is given for payment of such value into court whenever the same shall be ordered, and in such case the court issues a monition against all persons claiming damages against the vessel, to appear and make due proof of their respective claims. And by rule 55, after such claims are proven and reported, 'the moneys paid, or secured to be paid into court as aforesaid, or the proceeds of said ship or vessel and freight shall be divided pro rata amongst the several claimants, in proportion to the amount of their respective claims.' By rule 57, if the ship has been already libelled and sold, the proceeds shall represent the same for the purpose of these rules. In all cases cited, in which it has been said that the stipulation is a substitute for the thing itself, the remark has been made either with reference to the particular suit in which the stipulation is given, or with reference to a stipulation for the appraised value of the vessel, where the stipulation stands as security for any claim which may be filed against her up to the amount of the stipulation."

It is quite evident from this that the stipulation under Rule 54, *et seq.*, is to be treated as a substitute for the vessel itself for all claims that may normally arise out of the character of litigation carried on under such rules. That litigation as we have seen may properly be carried to a complete settlement of all claims, without regard to whether the prayer for limitation of liability is denied or not. The stipulator must, therefore, pay in full on his undertaking to enable the court to pay the costs and make the pro rata distribution.

Judgment affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.